



REPUBLIC OF KENYA

**IN THE HIGH COURT OF KENYA
AT MACHAKOS
Civil Case 111 of 2006**

MOSES MUNYWOKI MWENDWA 1ST PLAINTIFF/RESPONDENT

JOYCE MUENI KASWII 2ND PLAINTIFF/RESPONDENT

VERSUS

JOHN MUTUA MUASYA 1ST DEFENDANT/APPLICANT

JULIUS NYELELE 2ND DEFENDANT/APPLICANT

JUDGMENT

1. In the Amended Complaint dated 30/11/2006, the Plaintiffs aver that they are the registered proprietors of title No. **Ukia/Mukuyuni/1758** and that the Defendants intentionally, wrongfully and unlawfully entered and trespassed into that parcel of land and have committed acts of waste thereon by cultivating and tilling the land. They seek orders that the Defendants do vacate the suit land and that they should be permanently ordered by an injunction not to enter, encroach or remain on the land.
2. I have heard the oral evidence of Moses Muniwoki Mwendwa. I have also seen the title document issued on 12/8/2008 under the provisions of the Registered Land Act. They are the first registered owners of the land and under Section 27 and Section 28 of the Act that title is indefeasible and is also absolute.
3. Under Section 75 of the Constitution the right to free property is protected and deprivation of such property is deplored and outlawed.
4. In this case, the Defendants failed to enter appearance and filed no defence.
5. The evidence before me is uncontested and is credible. I will therefore allow the prayers in the plaint as prayed and since the suit is undefended, I shall make no order as to costs.
6. Orders accordingly.

Dated and delivered at Machakos this **10th** day of **November** 2009.

ISAAC LENAOLA

JUDGE

In presence of: **Mrs Isika for Plaintiff**

ISAAC LENAOLA

JUDGE